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BIPAR Press articles:

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▶ European Commission takes new steps to make the EU Single Market work better

In the framework of its 2015 Single Market Strategy, the European Commission adopted three concrete initiatives in May 2017 in order to make it easier for citizens and companies to manage their paperwork online in their home country or when working, living or doing business in another EU Member State:

- 1) **A Single Digital Gateway:** people and companies will have easier access, through a single digital entry point, to high quality information, online administrative procedures and assistance services. Any procedure currently available online for domestic users will be accessible to users from other Member States (e.g.: requests for a birth certificate, to register a car, to start a business or to register for social security benefits,...). With the Single Digital Gateway, the Commission wants to respond to users' needs in a digital world and also incentivise Member States to adopt e-government strategies to offer a modern and efficient public service.
- 2) **A Single Market Information Tool (SMIT):** the Commission can already request information directly from companies in the field of competition policy. The SMIT will allow the Commission, in targeted cases, to source defined and readily available data (such as, for example, cost structure, pricing policy or product volumes sold) in cases of serious difficulties with the application of EU Single Market legislation. This could prove valuable, for example, to collect information on suspected geo-blocking practices, to corroborate information on public tenders, or to obtain data on the pricing and underlying costs of cross-border parcel delivery. Such requests would be a measure of last resort and the information would be handled subject to strict confidentiality requirements.
- 3) **A SOLVIT Action Plan:** The Commission will build on the success of SOLVIT, a free of charge service which provides rapid and pragmatic solutions to people and companies all over Europe when they experience difficulties with public administrations while moving or doing business cross-border in the EU. The Action Plan aims to increase the use of SOLVIT by making sure that more citizens and businesses can easily access it and by improving data collection so that evidence from SOLVIT cases can be used to improve the functioning of the Single Market.

BIPAR will keep its member associations informed on the developments of these initiatives.

Source: European Commission's press release, 2 May 2017



EP's study on the impact of Brexit on consumer protection

At the request of the European Parliament's Committee on the Internal Market and Consumer Protection (IMCO), the Research Centre for Consumer Law of the University of Bayreuth prepared a paper on the "Consequences of Brexit in the area of consumer protection", which was published by the Parliament on 30 June 2017. This study examines the impact of Brexit on consumer protection under different scenarios: a future EEA membership of the UK; a relationship governed only by WTO rules; a relationship governed by a "tailor-made agreement". It concludes that from the perspective of consumers in the EU28, an EEA membership of the UK is the most favourable scenario.

The study mentions MiFID and financial intermediaries: *"financial intermediaries [...] are subject to licensing requirements. Deviating from the principle of territoriality, licensing requirements in such sectors follow the country-of-origin principle, according to which the admission in one Member State allows operating business activities also in other Member States ("European Passport"). After Brexit, the UK would be treated as a third country. To pursue business activities, which are subject to such license requirements, third country firms need to establish a branch in a Member State in a first step and acquire a license in a second step. If UK firms in the respective sectors establish branches in Member States in the described manner, the consumer protection level would still be ensured. However, the continuous validity of passports after Brexit granted by UK authorities before the Brexit needs to be clarified. It can be expected that the UK, in order to protect the city of London as Europe's financial centre, aims to reach an agreement to further participate in the regime of European Passports. If such a close integration of a non-Member State is appropriate, is predominantly a political decision. From the perspective of consumer protection and as far as the said licensing requirements serve the consumer protection, a continuous validity of European Passports raises concerns, if in return the UK is not bound to regulatory standards that are equivalent to the EU standards."*

This paper is available in English only upon request at the BIPAR Secretariat.

Source: European Parliament's website

BVK vs Check24: significant step towards consumer protection on the net

On 6 April 2017, BVK, the German Association of insurance intermediaries (a member association of BIPAR) won a lawsuit against Check24, the number one comparison website in Germany. In the autumn of 2015, BVK filed a lawsuit with the Regional Court of Munich against Check24 for unfair competition: Check24 was deceiving customers into believing that it was only a comparison website when it was in fact an insurance intermediary that was concluding insurance contracts and receiving commissions. Furthermore, it did not comply with the legal requirements regarding information and advice to consumers.

On 13 July 2016, the Regional Court of Munich condemned Check24 for its lack of transparency regarding its remuneration. As it did not obtain full satisfaction, BVK appealed this decision. On 6 April 2017, the Court of Appeal in Munich followed BVK's opinion, i.e. all market players must meet the same requirements to ensure consistent consumer protection. In its decision, the Court defined price comparison websites' obligations:

- they must indicate to clients that they do not only compare insurance policies but also receive commissions as brokers when an insurance contract is concluded;
- they must find out if the client already has a cover to avoid duplications;
- they must inform the client of possible exclusions in the insurance cover proposed.

BVK welcomed this legal victory and underlined the importance of having high standards for online sales.

Source: BVK's press release, 6 April 2017



► Solvency II: French Federation of insurance brokers and AXA agree on a draft delegation agreement

Within the framework of the Solvency II Directive and its impact on the relations between insurers and brokers (insurers must supervise the activities delegated to brokers as if these activities were carried out internally), the French Federation of insurance brokers (CSCA, *Chambre syndicale nationale des courtiers d'assurance*) eventually agreed with AXA, after several months of discussions and meetings, on the content of a draft delegation agreement. According to the CSCA, the latter is more balanced compared to the initial one and also more reasonable since it takes brokers' resources into account. It complies with the Solvency II Directive requirements while being contractually realistic (amongst others, better clarity on the reasons for termination and insurer's compensation principle when the broker makes a mistake while carrying out his task). Each broker who is a member of the CSCA and concerned by this agreement will receive a copy of it and will be free to sign it electronically or to renegotiate some points of the agreement which are not satisfactory.

The CSCA has also found a framework agreement with Generali and MMA, and said that it would continue negotiations with other insurers.

Source: Article of the *Argus de l'assurance*, 10 July 2017

► Report of the Belgian Insurance Ombudsman: number of claims against all-risks covers for mobile/smartphones still on the rise in 2016

A recent press release of the Belgian Insurance Ombudsman reports a continued increase in 2016 in the number of claims related to all-risks insurance for mobile/smartphones. At the time of purchase, these covers are proposed by sellers, who are not subject to the same professional requirements as insurance intermediaries. The legislator does not consider these sellers as insurance intermediaries because the type of product proposed is complementary to the main product. As a result, the requirements regarding knowledge, registration, professional liability, assessment of clients' needs and advice do not apply to sellers. Consumers often believe that they are extensively covered with the all-risks insurance. It is only when a loss occurs that they become aware of the scope of the insurance cover and realize that they were

not informed or ill-informed of the conditions of the contract. In order to avoid this type of claim, the Ombudsman recommends in its annual report of this year that all insurance sellers have a sufficient level of knowledge of the product that they distribute and that the requirements governing the sale be identical: "*The European Directive on insurance distribution will have to be implemented into Belgian law by 23 February 2018 at the latest. Would it not be the occasion to insert a legislative amendment in these provisions, so as to provide a legal framework to non-professional insurance distributors?*".

The Ombudsman's annual report is available in French and Dutch upon request at the BIPAR Secretariat.

Sources: Belga article, 25 April 2017 - Belgian Insurance Ombudsman's website

► Millions of British citizens hit by the increase of the tax on insurance

Despite calls to the UK Government for no further rise in the tax on insurance (see BIPAR Press, March 2017), the increase of the Insurance Premium Tax (IPT) took effect on 1 June 2017. As a result, the rate of tax paid on most insurance policies has doubled, from 6% in 2015 to 12% - in a period of 19 months.

Steve White, Chief Executive of the British Insurance Brokers' Association (BIBA) -BIPAR's member association-, stated: "*It is a tax on protection and penalises those that take the burden off the state by showing responsibility and prudence. We feel this rise is counter-productive to what Government should be doing and we're calling for a freeze of the tax for the term of the next Parliament.*"

According to BIBA, because of the way the tax is applied, those who pay more for their insurance, such as those in less well-off areas, young drivers and those in flood risk areas, face the heaviest burden. Small businesses also face a considerable increase to the cost of doing business as a result of this increase.

In a recent study conducted by BIBA, 90% of insurance brokers anticipated that a further rise in the tax on insurance would mean that clients would reduce their insurance protection or buy no cover at all.

Source: BIBA's press release, 1 June 2017



► OECD publishes "Insurance Markets in Figures"

On 30 June 2017, the OECD published a 4-page document entitled "Insurance Markets in Figures", which provides a short preview of trends in 40 countries in the insurance sector in 2016. The report shows diverging trends in terms of premiums collected by insurance companies across the various countries.

This paper is available in English only upon request at the BIPAR Secretariat.

Source: OECD website

► Swiss Re's publications

Report on natural catastrophes and man-made disasters in 2016

Swiss Re's latest Sigma report "Natural catastrophes and man-made disasters in 2016: a year of widespread damages" provides a global overview of losses arising from natural catastrophe and man-made disaster events in 2016. Both total economic and insured losses from disaster events in 2016 were the highest since 2012, reversing the downtrend of the previous four years.

This paper is available in English, French, German and Spanish upon request at the BIPAR Secretariat.

Technology and insurance: themes and challenges

On 9 June, Swiss Re released a study entitled "Technology and insurance: themes and challenges", which reviews the impact of recent advances in technology on the insurance value chain, and how they are reshaping the competitive landscape.

This paper is available in English only upon request at the BIPAR Secretariat.

Source: Swiss Re's website